



GARDINER ROBERTS

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File No. 96,667

June 9, 2011

E-FILED

Ms. Kirsten Walli  
Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street (27<sup>TH</sup> Floor)  
P.O. Box 2319  
Toronto, ON  
M4P 1E4

Dear Ms. Walli,

**Re: Union Gas Limited ("Union") – Red Lake Project;**  
**Board File Nos: EB-2011-0040, EB-2011-0041 and EB-2011-0042**

I now act as counsel for Goldcorp Canada Ltd. and Goldcorp Inc. ("Goldcorp") in this application. I enclose a Notice of Change of Lawyers which we are concurrently serving upon Thomas Brett of Fogler Rubinoff LLP.

As the Board is aware, Goldcorp carries on the business of, among other things, operating gold mines in Ontario. In its activities at Goldcorp – Red Lake Gold Mines, Goldcorp continuously attempts to consult with First Nations in the Red Lake Area including Lac Seul First Nation, Pikangikum First Nation, Wabauskang First Nation, Wabaseamong Independent First Nation at Grassy Narrows, Red Lake Indian Friendship Centre and the Metis. For a considerable time, Goldcorp has tried to ascertain whether any of these First Nations has delegated its right to be consulted to the Grand Council of Treaty No. 3. It has been informed by Lac Seul First Nation that Lac Seul First Nation has not so delegated that right. Goldcorp tries to foster a collaborative and respectful relationship with First Nations believing that since it is the biggest employer in the Red Lake area it must balance its activities reasonably with the potential impact of its decisions on First Nation interests.

Goldcorp therefore has a substantial interest in the three issues the Board has defined in Procedural Order No. 2. These issues raise profound questions that could be answered on many different levels and which require considerable thought and analysis. Goldcorp assumes that the Board has raised these issues with an open mind and not simply to attempt to fit its square peg Yellow Falls electricity decision into the round hole of its natural gas jurisdiction.

Goldcorp submits that the time limits in Procedural Order No. 2 are unreasonably short. While Goldcorp will be the main beneficiary of Union's project and is interested in its timely approval, it is prepared to accept a reasonable delay to allow the Board's three issues to be addressed fully and properly.

Goldcorp, therefore seeks a one-month adjournment and requests an amendment to the Board's order so that it reads as follows:

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1. Parties (including Board staff) who wish to make submissions on the questions listed above shall file pre-file written submissions with the Board and deliver them to all the other parties by **July 8, 2011**.
2. The Board will hear oral argument in the Board's hearing room commencing on **July 15, 2011** at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto at 9:30 a.m.

Goldcorp seeks the adjournment on the following grounds:

1. The addition of the Board's three issues to the hearing was a surprise to Goldcorp and broadened the scope of the case in an unforeseen manner. Goldcorp requires adequate time to consider and analyze these new issues and to prepare a written submission on them.
2. I have just been retained in this matter. Mr. Burden and I need time to read the filings in this case. June 15<sup>th</sup> is fewer than four clear business days away.
3. I am not an expert in the law respecting the legal duty to consult on the part of the Crown beyond having read *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511 as has everyone else. I need time to meet with lawyers who are expert in this area of the law in order to prepare Goldcorp's submission.
4. I and the other lawyers who I need to consult have other important commitments in the next couple of weeks and cannot give this matter their full and undivided attention.
5. It is accurate to say that the Board has never imposed time limits for questions so important that are so tight. We respectfully submit they are procedurally unfair and if adhered to will only lead to an externally imposed delay.

Goldcorp therefore respectfully seeks the adjournment as requested.

Please note that the following persons should now receive copies of the Application:

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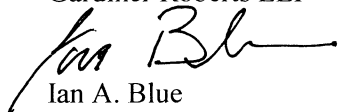
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Yours truly,

Gardiner Roberts LLP



Ian A. Blue

Enclosure

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EB-2011-0040  
EB-2011-0041  
EB-2011-0042

**IN THE MATTER OF** the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, Section 90 thereof;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order granting leave to construct a natural gas pipeline and ancillary facilities in the Township of Ear Falls and the Municipality of Red Lake, both in the District of Kenora;

**AND IN THE MATTER OF** the Municipal Franchises Act, R.S.O. 1990, c.M.55, as amended; and in particular Sections 8 and 9 thereof;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order approving the terms and conditions upon which the Corporation of the Municipality of Red Lake is, by Bylaw, to grant to Union Gas Limited the right to construct and operate works; to supply gas to the inhabitants of the said municipality; and the period for which such rights are to be granted;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order directing and declaring that the assent of the municipal electors of the Municipality of Red Lake to the by-law is not necessary;

**AND IN THE MATTER OF** an Application by Union Gas Limited for a Certificate of Public Convenience and Necessity to construct works to supply gas to the inhabitants of the Municipality of Red Lake.

#### **Notice of Change of Lawyers**

Goldcorp Canada Ltd. and Goldcorp Inc. ("Goldcorp"), formerly represented by Thomas Brett of Fogler, Rubinoff LLP, has appointed Ian Blue, Q.C. of Gardiner Roberts LLP and William J. Burden of Cassels Brock & Blackwell LLP, as lawyers of record.

June 9, 2011

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